



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

STRYKER SPINE,  
a division of Howmedica Osteonics Corp.

Plaintiff,

v.

Case No. 14-cv-93-pp

SPINE GROUP OF WISCONSIN, LLC,  
PAUL R. BREITENBACH and TODD POTOKAR,

Defendants.

---

**VERDICT FORM**

---

## **I. MISREPRESENTATION: INTENTIONAL DECEIT**

### **A. Spine Group of Wisconsin**

**Question 1:** Did Spine Group of Wisconsin make any representation of fact?

☒ Yes

☐ No

**Question 2:** If you answered "YES" to Question 1, answer this question: Was any such representation untrue?

☒ Yes

☐ No

**Question 3:** If you answered "YES" to Question 2, answer this question: Did Spine Group of Wisconsin make any such representation knowing it was untrue or make any representation-recklessly without caring whether it was true or untrue?

☒ Yes

☐ No

**Question 4:** If you answered "YES" to Question 3, answer this question: Did Spine Group of Wisconsin make any such representation with the intent to deceive and induce Stryker Spine to act upon it?

☒ Yes

☐ No

**Question 5:** If you answered "YES" to Question 4, answer this question: Did Stryker Spine believe any such representation to be true and justifiably rely on it to its pecuniary damage?

☒ Yes

☐ No

**If you answered "YES" to all of the preceding questions, answer Question 16.**

**B. Paul Breitenbach**

**Question 6:** Did Mr. Breitenbach make any representation of fact?

☒ Yes

☐ No

**Question 7:** If you answered "YES" to Question 6, answer this question: Was any such representation untrue?

☒ Yes

☐ No

**Question 8:** If you answered "YES" to Question 7, answer this question: Did Mr. Breitenbach make any such representation knowing it was untrue or recklessly without caring whether it was true or untrue?

☒ Yes

☐ No

**Question 9:** If you answered "YES" to Question 8, answer this question: Did Mr. Breitenbach make any such representation with the intent to deceive and induce Stryker Spine to act upon it?

☒ Yes

☐ No

**Question 10:** If you answered "YES" to Question 9, answer this question: Did Stryker Spine believe any such representation to be true and justifiably rely on it to its pecuniary damage?

☒ Yes

☐ No

**If you answered "YES" to Questions 6 through 10, answer Question 16.**

**C. Todd Potokar**

**Question 11:** Did Mr. Potokar make any representation of fact?

☒ Yes

☐ No

**Question 12:** If you answered "YES" to Question 11, answer this question: Was any such representation untrue?

☒ Yes

☐ No

**Question 13:** If you answered "YES" to Question 12, answer this question: Did Mr. Potokar make any such representation knowing it was untrue or recklessly without caring whether it was true or untrue?

☒ Yes

☐ No

**Question 14:** If you answered "YES" to Question 13, answer this question: Did Mr. Potokar make any such representation with the intent to deceive and induce Stryker Spine to act upon it?

☒ Yes

☐ No

**Question 15:** If you answered "YES" to Question 14, answer this question: Did Stryker Spine believe any such representation to be true and justifiably rely on it to its pecuniary damage?

☒ Yes

☐ No

**If you answered "YES" to Questions 11 through 15, answer Question 16.**

**Question 16:** What sum of money will fairly and reasonably compensate Stryker Spine for its loss?

\$ 2,000,000

**Proceed to the next page**

## **II. TERMINATION PAYMENT**

**Question 17:** Did Spine Group of Wisconsin waive its right to receive a termination payment under the 2008 Agreement?

☒ Yes

☐ No

**Question 18:** Does Spine Group of Wisconsin's conduct rise to the level of unclean hands?

☒ Yes

☐ No

**Question 19:** Is Spine Group of Wisconsin estopped from recovering a termination payment based on its actions or inactions it took against Stryker Spine?

☒ Yes

☐ No

**If you answered YES to any of Questions 17 through 19, then proceed to the next page. If you answered NO to Questions 17 through 19, then answer the following question:**

If you answered NO to Questions 17 through 19, state the amount of the termination payment that Spine Group of Wisconsin is entitled to recover:

\$ \_\_\_\_\_.

**Proceed to the next page.**

**The answers above are our unanimous verdict.**

**DATE:**

**BY:**

  
(Signature of Foreperson)